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December 15, 1992

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BY HAND

Donna R. Searcy, Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: CC Docket No. 92-90: Report of Ex Parte Discussions

Dear Ms. Searcy:

To ensure that the record in this matter is complete, I wish to report on a series of meetings and telephone conversations conducted on behalf of our client, the Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG"). In recent days, and on an ongoing basis, I have been speaking with various officials in the Commissioners' offices, in the Office of General Counsel, and in the Common Carrier Bureau concerning a Petition for Stay and a Petition for Reconsideration and Clarification filed by EIA/CEG and the Telecommunications Industry Association ("TIA") in the above-referenced docket. Virtually all of the information presented was already on the public record in the form of the two petitions, the accompanying affidavits, an earlier ex parte report, and related filings by Tandy Corporation and Pitney Bowes. The key points of the presentations were as follows:

1. The petition for stay is unopposed.
2. The sworn affidavits accompanying the petition are uncontroverted.
3. Failure to grant the stay will cause millions of dollars in injury to manufacturers of facsimile machines and will deprive consumers of affordably priced equipment.

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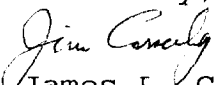
4. Approval of the stay will not delay implementation of the requirement that all individuals, businesses, and other entities mark the date, time, sender's name, and sender's telephone number on all facsimile messages, beginning December 20.

In the course of these discussions, I have suggested that the Commission -- or the Common Carrier Bureau (acting on delegated authority) -- could achieve the desired result through any one of a variety of means. Among the alternatives are (1) staying the rule pending resolution of the petitions for reconsideration and clarification, (2) extending the deadline for compliance with the manufacturing deadline, (3) waiving the manufacturing deadline for products currently subject to a valid FCC equipment authorization, or (4) interpreting the rule to apply only to products first manufactured after December 20, 1992 (but not to existing products). Another (but less desirable) alternative is (5) suspending enforcement of the rule establishing the manufacturing deadline.

I have encouraged Commission officials to confer with congressional staff to ascertain whether there would be any objection to the Commission's exercise of its powers to avoid causing substantial unintended injury to consumers and to manufacturers. I have represented, on the basis of my conversations with key congressional staff, that I am aware of no legislative intention to cause the kind of injury that would occur unless the stay were to be granted.

Finally, I have communicated that, although the affidavits attached to the petition to stay demonstrate the need for a six-month deferral of the manufacturing deadline (and the Pitney Bowes letter states that a 12-month extension is necessary), EIA/CEG would much prefer a 90-day delay to outright denial of the stay request.

This letter and the attached copy are furnished for inclusion in the public record in compliance with Section 1.1206(a)(1) of the Commission's rules. Please let me know if you have any questions.

Sincerely,  
  
James L. Casserly